UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/411,171	10/01/1999	KHURSHED MAZHAR	3797.80030	7939

22801 7590 11/25/2005	**EXAMINER**
LEE & HAYES PLLC	NGUYEN, CAO H

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ART UNIT	PAPER NUMBER
2173	

DATE MAILED: 11/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/411,171	MAZHAR ET AL.
	Examiner	Art Unit	
	Cao (Kevin) Nguyen	2173	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on <u>02 September 2005</u>.

2a)☒ This action is **FINAL.**　　2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) <u>22-42</u> is/are pending in the application.

　　4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) <u>22-42</u> is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

　　Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

　　Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

　　a)☐ All　b)☐ Some * c)☐ None of:

　　　1.☐ Certified copies of the priority documents have been received.

　　　2.☐ Certified copies of the priority documents have been received in Application No. _____.

　　　3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

　　* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
　Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
　Paper No(s)/Mail Date. _____ .
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

Claim Rejections - 35 USC § 102/103

1.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 (a) that form

the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this
> or a foreign country, before the invention thereof by the applicant for a patent.

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in
> section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are
> such that the subject matter as a whole would have been obvious at the time the invention was made to a person
> having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the
> manner in which the invention was made.

1.   Claims 22 are rejected under 35 U.S.C. 102(a) as anticipated by or, in the alternative,

under 35 U.S.C. 103(a) as obvious over RealPlayer G2™ ©1998 (hereinafter RealPlayer) as

supported by the screenshots provided along with the original PTO-892 Notice of References

cited and the press release "Realnetworks Ships Final Release of Realsystem G2, Next

Generation Media Delivery System" (hereinafter Press Release) provided with the PTO-892

Notice of References cited.

Regarding to claim 22, RealPlayer discloses a computer system having a display device

for rendering a graphical user interface of a Web browser displaying Web page content in a

browser pane, and having at least one speaker for playing streaming media, the graphical user

interface comprising: [RealPlayer is a program that accesses data and files (audio and video files)

from the World Wide Web. It reads and processes hyperlinks to get to the appropriate site, and

is therefore a Web browser. The display shows a graphical user interface of a Web browser

(RealPlayer), which displays a Web page in a browser pane (see screenshot 2, right half)]; a

radio toolbar displaying radio-toolbar buttons for controlling the streaming media irrespective of

the Web page content being browsed, the radio-toolbar buttons including: a play/stop button

enabled to toggle between play and stop to control, respectively, playing and stopping of

available streaming media and disabled when streaming media is unavailable [i.e. the play

button, mute button, and Presets menu in screenshot 2]; a mute button for instructing the Web

browser to silence streaming media, the mute button assuming an inactive state if the computer

system cannot modify volume and an active state otherwise; a volume slider for controlling the

volume of streaming media played over the speaker, the volume slider assuming an inactive state

if the computer system cannot modify volume and an active site otherwise It is not explicitly

shown in the screenshots of RealPlayer, but it is implicitly implied that the radio toolbar of

RealPlayer has at least one button for controlling the first source of streaming media irrespective

of the web page content being browsed. It is apparent that the user may play streaming media,

from the "Presets" menu for example, while the Web page content being browsed within

screenshot 2 concerns the auto update feature of RealPlayer. The preset stations and the auto

update feature are irrespective of each other. As another example, the user of RealPlayer may

search the Web while playing the streaming media, as indicated by the "excite" and "search"

areas within screenshot 2. This is further supported in page 2 of the Press Release under the

section "RealAudio and RealVideo Search", which describes integrating the RealPlayer with a

Web browser The current streaming media will continue to play until the user selects a different

streaming media from the search results. Furthermore, controls are provided in RealPlayer for

stopping, muting, and changing the volume of the first source of streaming media (Fig. 2), which

does not affect the content displayed in the minibrowser (right portion of Fig. 2). Therefore, it

would have been obvious to one of ordinary skill in the art to ensure the buttons in the radio

toolbar of RealPlayer control the first source of streaming media irrespective of the Web page

content being browsed, such that the browsing does not interrupt the play of the streaming media

and the streaming media does not interrupt the browsing of the Web page]; a radio-stations

button selectable to alter a source of streaming media by providing a drop-down list that includes

an "add station to favorites" entry and a list of recently used radio stations; and an information

area displaying a status text component and a status icon component, the status text component

presenting meta data information associated with a streaming media source, the status icon

component presenting an Internet connection status regarding the streaming media source; and b)

a cursor controllable by a user to select the radio-toolbar buttons, the cursor configured to

highlight a radio-toolbar button while passing over that radio-toolbar button and to display a

rollover tool tip describing a corresponding function of the highlighted radio-toolbar button [The

graphical user interface comprises a radio button toolbar tool tip for displaying buttons capable

of controlling said first source of streaming media (i.e. the play button, mute button, and Presets

menu in screenshot 2].

Regarding to claim 23, RealPlayer discloses wherein the rollover tool tip for the play/stop

button is "play" when the play/stop button is toggled stop, and "stop" when the play/stop button

is toggled to play The Channels bar is registered with the Web browser (RealPlayer) as a band

object. The explorer bar allows user input regarding the first source of streaming media

irrespective of the Web page content present in the browser pane. For example, the user may

select the first source of streaming media to be from the "Video Music Network" (screenshot 2) while searching for other streaming media as described above.

Regarding to claim 24, RealPlayer discloses wherein the rollover tool tip for the mute button is "mute" when the mute when mute button is active [i.e. the play button, mute button, and Presets menu in screenshot 2].

Regarding to claim 25, RealPlayer discloses wherein the rollover tool tip for the volume slider is "volume control" (see slider above mute button in screenshot 2).

Regarding to claim 26, RealPlayer discloses wherein the rollover tool tip for the radio button when the radio button is active (see Channels bar in screenshots 2 and 3).

Regarding to claim 27, RealPlayer discloses wherein the gui further comprises an "add to favorites" dialog box initiated by a selection. It would have been obvious to one of ordinary skill in the art at the time of the invention to add a favorites song into the list RealPlayer, in order to enhance the capabilities of the best song selection by the user.

Regarding to claim 28, RealPlayer discloses wherein the status icon component presenting the Internet connection status a default icon of a streaming media source if the

streaming media current playing. The graphical user interface shows a status bar showing a current status for the connection of buffering(see bottom of screenshot 2).

As claims 29-42 are analyzed as previously discussed with respected to claims 22-28.

Response to Arguments

Applicant's arguments filed on 09/20/05 have been fully considered but they are not

persuasive.

Applicant's argues that there is nothing suggests that RealPlayer's play, pause, stop and

/or bottom control. However, the limitations as claimed which read on "Autoupdates is simply

content that is shown in a minibrowser (right half of screenshot 2) of RealPlayer. Since a

"Preset" does nothing more than change between channels (sources) of Page 8 media, the

selection of a Preset" would not have changed the content in the minibrowser of RealPlayer.

Since the user sees the content that is present in the minibrowser, the content that is displayed in

the minibrowser is the content that is browsed. Therefore, selection of a "preset" controls the

source of streaming media irrespective of the content being browsed (i.e. selection of a a "Preset"

does not depend on the content in the minibrowser). Applicant argues that the

screenshots do not show RealPlayer playing the streaming media. While the screenshots show

Reaplayer at a time where it may not be playing media, the screenshots clearly show the

interface of RealPlayer and the capability to display content in a minibrowser and control the

source of streaming media, wherein controlling the source of streaming media is not dependent

on the content displayed in the minibrowser. As a further example, RealPlayer shows a volume

control that clearly controls the volume of the source of streaming media and does not affect

what is displayed in the minibrowser (i.e. controlling the source of streaming media irrespective

of the content being browsed).

Applicant argues that the web page content being browsed in RealPlayer is not the web

page content being displayed. It is unclear as to how web page content may be browsed without

being displayed. The minibrowser of RealPlayer clearly shows a display area for displaying web

page content. Any content that is displayed in this area may be seen and read by the user, and is

therefore being browsed. This content may include the search results from the "Excite" search.

The user is not required to select one of the results; rather the user has the option of

playing a source of streaming media from a preset channel, for example. Therefore, the user may

browse web page content that is displayed in the minibrowser without affecting the source of

streaming media (i.e. the source of streaming media and the content being displayed and browsed

are irrespective of one another). Even if the search results of RealPlayer are displayed in a

separate browser window, the tight integration of RealPlayer and the web browser, as described

in page 2 of the Press Release, make the browser window and the RealPlayer window a single

graphical interface, especially considering that RealPlayer and the browser are both part of the

same operating system (graphical interface).

Applicant argues that there is no physical location available to display web page content

in RealPlayer. However, the section to the right in screenshot 2 shows hyperlinks and web

content and is a minibrowser. The fact that this pane may be used to display media from a

selected channel on the does not take away from the fact that the pane may show web

content. in fact, the media displayed in the pane is a form of web content, and RealPlayer still

shows buttons for controlling the source of streaming media (i.e. volume and mute) that control

the sound of the streaming media irrespective of what is displayed in the minibrowser pane.

Applicant argues that the RealPlayer G2 is not a Web browser; however the limitations as

claimed set forth to read on "a program that accesses data and files (audio and video files) from

the World Wide Web. It reads and processes hyperlinks to get to the appropriate site, and is

therefore a Web browser. The display shows a graphical user interface of a Web browser (RealPlayer), which displays a Web page in a browser pane (see screenshot 2, right half)."

The Realnetworks and Autoupdate feature is described. It explains how the user is first notified of an update, and then must click to install the update (one button away"). The Examiner never clicked to update the RealPlayer as can be seen in the title bar that states "Realplayer G2". The title bar does not show RealPlayer 7 or the G2. The Autoupdate provides notification of available updates, and therefore the reference to RealPlayer 8 in screenshots 2-5 simply notifies the user (Examiner) of versions of RealPlayer that were available at the time of the examination.

Accordingly, the claimed invention as represented in the claims does not represent a patentable distinction over the art of record.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.
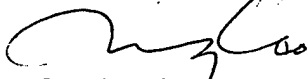
Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Cao (Kevin) Nguyen whose telephone number is (571)272-4053.

The examiner can normally be reached on 8:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John Cabeca can be reached on (571)272-4048. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system. Status information for published applications

may be obtained from either Private PAIR or Public PAIR. Status information for unpublished

applications is available through Private PAIR only. For more information about the PAIR

system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR

system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Cao (Kevin) Nguyen
Primary Examiner
Art Unit 2173

11/21/05